

1 Marc H. Cohen, Esq. (State Bar No. 168773)

2 mcohen@kirkland.com

3 Kirkland & Ellis LLP

3330 Hillview Avenue

4 Palo Alto, CA 94304

Telephone: (650) 859-7000

Facsimile: (650) 859-7500

5 Jeffrey L. Willian, Esq. (*pro hac vice*)

6 Donna M. Welch, Esq. (*pro hac vice*)

Kirkland & Ellis LLP

300 North LaSalle

7 Chicago, IL 60654

Telephone: (312) 862-2000

8 Facsimile: (312) 862-2200

9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**
13

14 MONTEREY BAY MILITARY HOUSING,
15 LLC, CLARK PINNACLE MONTEREY BAY
16 LLC, CLARK MONTEREY PRESIDIO LLC,
17 CALIFORNIA MILITARY COMMUNITIES
18 LLC, CLARK PINNACLE CALIFORNIA
19 MILITARY COMMUNITIES LLC and CLARK
20 IRWIN, LLC,

Plaintiffs,

21 vs.

22 PINNACLE MONTEREY LLC, PINNACLE
23 IRWIN LLC, AMERICAN MANAGEMENT
24 SERVICES CALIFORNIA INC., AMERICAN
25 MANAGEMENT SERVICES LLC D/B/A
26 PINNACLE, GOODMAN REAL ESTATE,
27 INC., GOODMAN FINANCIAL SERVICES,
28 INC., STANLEY HARRELSON and JOHN
GOODMAN,

Defendants.

AND RELATED CROSS-COMPLAINT:

Case No. 5:14-CV-03953 BLF

**DECLARATION OF YATES M.
FRENCH IN SUPPORT OF
PLAINTIFFS' EMERGENCY MOTION
TO ENFORCE BINDING TERM SHEET**

COURTROOM: 3, Fifth Floor

JUDGE: Hon. Beth L. Freeman

PINNACLE IRWIN, LLC and PINNACLE
MONTEREY, LLC,

Plaintiffs,

vs.

CLARK REALTY CAPITAL, L.L.C., CLARK
PINNACLE MONTEREY BAY LLC, CLARK
PINNACLE CALIFORNIA MILITARY
COMMUNITIES LLC, and DOES 1-25,
INCLUSIVE,

Defendants.

AMERICAN MANAGEMENT SERVICES
CALIFORNIA INC. and AMERICAN
MANAGEMENT SERVICES LLC (D/B/A
PINNACLE),

Counterclaimants,

vs.

MONTEREY BAY MILITARY HOUSING LLC
AND CALIFORNIA MILITARY
COMMUNITIES LLC

Counterdefendants.

1 I, Yates M. French, hereby declare:

2 1. I am an attorney at Kirkland & Ellis LLP, and am counsel of record in this case, representing
3 Plaintiffs. The facts stated herein are true of my own personal knowledge, except as to any
4 matters stated on information and belief, and as to those matters, I am informed and believe
5 them to be true. If called as a witness in this matter, I could and would competently testify as
6 to the matters set forth below.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of the Binding Term Sheet.

8 3. Attached hereto as **Exhibit 2** is a true and correct copy of the August 12, 2015 D. Welch
9 Email to T. Dutton, K. Kimmey.

10 4. Attached hereto as **Exhibit 3** is a true and correct copy of the August 17, 2015 D. Welch
11 Email to T. Dutton.

12 5. Attached hereto as **Exhibit 4** is a true and correct copy of the August 18, 2015 T. Dutton
13 Email to D. Welch.

14 6. Attached hereto as **Exhibit 5** is a true and correct copy of the August 19, 2015 D. Welch
15 Email to T. Dutton.

16 7. Attached hereto as **Exhibit 6** is a true and correct copy of the August 20, 2015 T. Dutton
17 Email to D. Welch.

18 8. Attached hereto as **Exhibit 7** is a true and correct copy of the August 20, 2015 D. Welch
19 Email to T. Dutton.

20 9. Attached hereto as **Exhibit 8** is a true and correct copy of the redline version of the
21 Unconditional Guaranty.

22 10. Attached hereto as **Exhibit 9** is a true and correct copy of redlined versions of the Deed of
23 Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, the PPMS
24 Note Pledge Agreement, the BAF Note Pledge Agreement and the GRE Pledge and Security
25 Agreement.

26 11. On August 24, 2015 I logged on to the King County Assessor's website and reviewed the
27 assessed value for Tax Parcels 277110-0685, 281802-0020, and 281802-0030, which I
28 understand to be the tax parcel numbers for the warehouse and residence that John Goodman

1 has caused to be pledged to secure his personal guaranty. The assessed values for these
2 properties were \$1,727,500, \$1,555,300, and \$345,500 respectively.

3 12. I declare under penalty of perjury under the laws of the State of California that the foregoing
4 is true and correct. This declaration was executed this 24th day of August, 2015 in Chicago,
5 Illinois.

DATED: August 24, 2015

Respectfully submitted,

/s/ Yates M. French

Yates M. French, Esq., (*pro hac vice*)
Kirkland & Ellis LLP
300 N. LaSalle
Chicago, IL 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 24, 2015 that a copy of the foregoing document is being electronically filed with the Clerk of the United States District Court of the Northern District of California by using the CM/ECF system, which will send notice of such filing to all counsel of record.

DATED: August 24, 2015

KIRKLAND & ELLIS LLP

Respectfully submitted,

/s/ Marc H. Cohen

Marc H. Cohen, Esq. (State Bar No. 168773)
KIRKLAND & ELLIS LLP
3330 Hillview Avenue
Palo Alto, CA 94303
Telephone: (650) 859-7000
Facsimile: (650) 859-7500

Jeffrey L. Willian, P.C. (*pro hac vice*)
Donna M. Welch, P.C. (*pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200